

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Shunpei Yamazaki et al. Art Unit : 2624
Serial No. : 09/833,674 Examiner : Anthony M. Mackowey
Filed : April 13, 2001 Conf. No. : 2128
Title : SYSTEM AND METHOD FOR IDENTIFYING AN INDIVIDUAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)

Applicants hereby request reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced application. Reconsideration of the PTA calculation to increase total PTA from 1,294 days to 1,316 days is respectfully requested.

REVIEW OF PATENT TERM ADJUSTMENT CALCULATION

PTO Delay

A first PTO action was due on or before June 13, 2002 (the date that is fourteen months after April 13, 2001, the date on which the application was filed). The PTO mailed the first non-final Office Action on June 30, 2004, thereby according a PTO Delay of 748 days. Applicants do not dispute the PTO's calculation for this PTO Delay from June 14, 2002 (the day after the date that is fourteen months after the date on which the application was filed), to June 30, 2004. See 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1).

A PTO action was due on or before November 30, 2004 (the date that is four months after July 30, 2004, the date on which a response to Office Action was filed). The PTO mailed a non-final Office Action on January 25, 2005, thereby according a PTO Delay of 56 days. Applicants do not dispute the PTO's calculation for this PTO Delay from December 1, 2004 (the day after the date that is four months after the date on which a response to Office Action was filed), to January 25, 2005. See 37 C.F.R. §§ 1.702(a)(2) and 1.703(a)(2).

A Notice of Appeal was filed by Applicants on October 25, 2007. The PTO mailed a final decision in favor of the applicant by the Board of Patent Appeals and Interferences on June 18, 2009, thereby according a PTO Delay of 603 days. Applicants do not dispute the PTO's

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: December 16, 2009.

calculation for this PTO Delay from October 25, 2007, to June 18, 2009. See 37 C.F.R. §§ 1.702(e) and 1.703(e).

In view of the periods of PTO Delay detailed above, the total PTO Delay for this application should be calculated as 1,407 days (i.e., the sum of 748 days, 56 days, and 603 days).

Applicant Delay

A reply to an Office Action was due on or before April 24, 2006 (the date that is three months after January 24, 2006, the date on which the Office Action was mailed). Applicants filed a response to the Office Action on May 24, 2006, thereby according an Applicant Delay of 30 days. Applicants do not dispute the PTO's calculation for this Applicant Delay from April 25, 2006 (the day after the date that is three months after the date on which the Office Action was mailed), to May 24, 2006. See 37 C.F.R. § 1.704(b).

The Patent Term Adjustment History in the PAIR system indicates Applicants filed a Supplemental Response on June 15, 2006, subsequent to a reply filed on May 24, 2006. Applicants were accorded a delay of 22 days for a supplemental response. Applicants have reviewed the online Image File Wrapper in the PAIR system, have reviewed their own paper and electronic files, and cannot find any evidence that any such response or other paper was filed on this date or at any point after their initial response filed on May 24, 2006. As such, Applicants respectfully submit that this supplemental response was entered into the PAIR system in error. Applicants respectfully request the Applicant Delay be decreased from 22 days to 0 days. See 37 C.F.R. § 1.704(c)(8).

A reply to an Office Action was due on or before August 25, 2007 (the date that is three months after May 25, 2007, the date on which the Office Action was mailed). Applicants filed a response to the Office Action on October 25, 2007, thereby according an Applicant Delay of 61 days. Applicants do not dispute the PTO's calculation for this Applicant Delay from August 26, 2007 (the day after the date that is three months after the date on which the Office Action was mailed), to October 25, 2007. See 37 C.F.R. § 1.704(b).

In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this application should be calculated as 91 days (i.e., the sum of 30 days and 61 days).

Conclusion

In consideration of the events described above, Applicants believe the PTA calculation of 1,294 days is incorrect. As such, Applicants respectfully request reconsideration of the PTA in the following manner:

- 1) Total PTO Delay should be calculated as 1,407 days (i.e., the sum of 748 days, 56 days, and 603 days);
- 2) Total Applicant Delay should be calculated as 91 days (i.e., the sum of 30 days and 61 days); and
- 3) Total PTA should be calculated as 1,316 days.

The fee of \$200 required under 37 C.F.R. § 1.18(e) is being submitted herewith. Please apply any other required charges or credits to Deposit Account No. 06-1050, referencing attorney docket number 12732-0028001.

Respectfully submitted,

Date: 12/16/09



John F. Hayden
Reg. No. 37640

Fish & Richardson P.C.
PTO Customer No. 26171
Telephone: (202) 783-5070
Facsimile: (877) 769-7945